

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN SENATE AUGUST 18, 2015

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 853**

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**Introduced by Assembly Member Roger Hernández**

February 26, 2015

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An act to add Section 764 to the Public Utilities Code, relating to energy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 853, as amended, Roger Hernández. Electrical and gas corporations: security of plant and facilities.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. If the commission finds after a hearing that the rules, practices, equipment, appliances, facilities, or service of any public utility, or of the methods of manufacture, distribution, transmission, storage, or supply employed by the public utility, are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the Public Utilities Act requires that the commission determine and, by order or rule, fix the rules, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed. The Public Utilities Act requires the commission to

prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility and, on proper demand and tender of rates, require the public utility to furnish the commodity or render the service within the time and upon the conditions provided in the rules adopted by the commission.

This bill would, on and after the filing of an electrical corporation's or gas corporation's general rate case application, require that electrical corporation or gas corporation, except as provided, to utilize employees of that corporation for any work associated with the design, engineering, and operation of its nuclear, electrical, and gas infrastructure, including all computer and information technology systems, unless the utility files a request to ~~employ contract to utilize persons that are not who will replace those~~ employees with the commission as a part of the utility's general rate case application. The bill would require that the request be a separate stand-alone section that is not embedded in the general requested staffing change proposals. The bill would require the utility to demonstrate that the work can be performed safely and securely, and without jeopardizing the security of its nuclear, electrical, and gas infrastructure, ~~by persons that are not employees. infrastructure.~~ The bill would require the commission to evaluate the utility's ~~proposal to utilize persons that are not employees. proposal.~~ The bill would require the commission to issue a written ~~decision, decision to approve or deny the request~~ as part of the general rate case ~~proceeding, determining whether the electrical corporation or gas corporation may utilize persons that are not employees for the described work. proceeding.~~

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Protecting the security of nuclear, electrical, and natural gas
- 4 utility systems is a paramount state interest.
- 5 (b) Protecting the privacy of ratepayers' personal information,
- 6 including usage information, is a paramount state interest.
- 7 (c) Recent intrusions into major corporate computer systems,
- 8 including Sony and Anthem Blue Cross, and the theft of
- 9 information from those systems have demonstrated the
- 10 vulnerability of those systems.
- 11 (d) The computer systems of California's electrical corporations
- 12 and gas corporations have information about the design,
- 13 engineering, and operation of the nuclear, electrical, and natural
- 14 gas utility infrastructure, as well as personal information about
- 15 California ratepayers. This information could be used to
- 16 compromise the security of California's utility infrastructure and
- 17 the privacy of California's ratepayers.
- 18 (e) Widespread deployment of smart meters, smart grid
- 19 equipment, and microgrids increases the importance of protecting
- 20 the computer systems of electrical corporations and gas
- 21 corporations.
- 22 (f) The part of any computer system that is most vulnerable to
- 23 being compromised is the personnel who operate that system.
- 24 (g) Electrical corporations and gas corporations should make
- 25 every reasonable effort to protect their computer systems from
- 26 unauthorized intrusions.
- 27 (h) To protect the security of electrical and natural gas utility
- 28 computer systems, including nuclear infrastructure, the information
- 29 technology personnel who operate those systems should be
- 30 employees of the electrical corporation or gas corporation.
- 31 (i) To protect the security of nuclear, electrical, and gas utility
- 32 infrastructure, the design, engineering, and operation of that
- 33 infrastructure should, to the extent feasible, be performed by
- 34 employees of the electrical corporation or gas corporation.

SEC. 2. Section 764 is added to the Public Utilities Code, to read:

764. (a) An electrical corporation or gas corporation shall utilize employees of the electrical corporation or gas corporation for any work associated with the design, engineering, and operation of its nuclear, electrical, and gas infrastructure, including all computer and information technology systems, unless the utility complies with the requirements of this section and obtains the approval of the commission pursuant to this section.

(b) ~~Before utilizing contracting to utilize persons that are not who will replace~~ employees of the electrical corporation or gas corporation ~~for work the same work performed by those employees that is~~ associated with the design, engineering, and operation of its nuclear, electrical, and gas infrastructure, including all computer and information technology systems, an electrical corporation or gas corporation shall file a request ~~to employ contract with those persons that are not who will replace those~~ employees with the commission, as part of the utility's general rate case application. The request shall be a separate stand-alone section that is not embedded in the general requested staffing change proposals. The utility shall demonstrate that the work can be performed safely and securely, and without jeopardizing the security of its nuclear, electrical, and gas infrastructure.

(c) The commission shall evaluate the utility's proposal ~~to utilize persons that are not employees of the electrical corporation or gas corporation for work associated with the design, engineering, and operation of its nuclear, electrical, and gas infrastructure, including all computer and information technology systems.~~ *described in subdivision (b).*

(d) The commission shall issue a written decision *to approve or deny the proposal described in subdivision (b)* as part of the general rate case ~~proceeding determining whether the electrical corporation or gas corporation may utilize persons that are not employees of the electrical or gas corporation for the described work.~~ *proceeding.*

(e) A person or corporation owning or operating a qualifying facility pursuant to federal law or a facility that is an exempt wholesale generator is not an electrical corporation due to the ownership or operation of that facility. This subdivision is declaratory of existing law.

1 (f) The requirements of this section are applicable only to  
2 electrical corporations or gas corporations that file general rate  
3 cases with the commission.

4 (g) (1) This section does not apply to an electrical corporation  
5 or gas corporation contracting out construction, alteration,  
6 demolition, installation, maintenance, or repair work on its nuclear,  
7 electrical, or gas infrastructure.

8 (2) This section does not apply to the design and engineering  
9 of standard equipment purchased from an outside vendor.

10 (3) *This section does not apply to supplemental work performed*  
11 *by a third party in response to an emergency.*

12 (4) *This section does not apply to the design, engineering, or*  
13 *construction work associated with existing or new electrical or*  
14 *gas utility infrastructure necessary to accommodate or serve state*  
15 *transportation infrastructure projects.*

16 (5) *Nothing in this section shall be construed to alter the*  
17 *requirements of Article 5 (commencing with Section 8281) of*  
18 *Chapter 7 of Division 4.*

19 ~~(3)~~

20 (6) For each electrical or gas corporation, this section shall  
21 become effective for that corporation upon the filing, on or after  
22 January 1, 2016, of that corporation's general rate case application.

23 SEC. 3. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.